Rifts erupt in Australian ruling class over Voice referendum wording

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Sharp, although essentially tactical, divisions have developed in Australia's capitalist establishment over the Labor government's planned referendum to enshrine in the Constitution an entirely new institution—a still undefined Aboriginal and Torres Strait Islander Voice with the power to "make representations" to both federal parliament and the executive government.

Conflicts over the wording of the proposed constitutional amendment have the potential to produce a political crisis. On the one hand, the Albanese government is desperate to use the Voice referendum to put a supposedly progressive veneer on its reactionary, pro-business and militarist agenda, and make a cynical appeal for "national unity." Its real program consists of preparing to join a US war against China and imposing austerity and real wage cuts on the working class amid a spiralling global economic and inflationary breakdown.

On the other hand, sections of the ruling class, while often still saying they support the Voice project, are raising concerns that the body would have a constitutionally-entrenched power to intervene on every aspect of government and to mount challenges to the High Court on the grounds of not being adequately consulted.

Never before since the colonial-era 1901 Constitution was adopted has a proposal been made to cement in it an advisory body with potentially unrestricted powers to be consulted on every front, even military and foreign policy decisions.

Backed by some constitutional lawyers, notably ex-Australian Catholic University vice chancellor Greg Craven, various commentators and former Liberal-National prime ministers are raising objections that the modified wording of the referendum proposal, unveiled by Prime Minister Anthony Albanese on March 23, does not go far enough to rule out such possibilities.

They allege that giving the Voice the constitutional power to make representations on all matters "relating" to indigenous people, and to every level of "executive government," including ministers and public service and agency chiefs, would open up a can of legal worms.

On March 23, Albanese said the wording had been "tweaked" to reinforce the "primacy" of parliament and ensure that the Voice would have no "veto" over legislation or government decisions.

But Attorney-General Mark Dreyfus later admitted that the Voice could appeal to the High Court if it alleged there was insufficient consultation. Dreyfus also conceded that the governor-general, the head of state, was within the remit of the Voice, and that defence and foreign policy were open to demands by the Voice for consultation.

Big business has overwhelmingly supported the Voice plan for similar political and ideological reasons to that of the Labor government. It wants a gesture made to give the appearance that the historic crimes committed by British and Australian imperialism against the indigenous people can be rectified within the same rapacious corporate profit system that drove the dispossession, massacres and oppression.

At the same time, the capitalist class calculates that the Voice, representing a long-cultivated and wealthy indigenous layer of CEOs, business operators and academics, would provide a more institutional and reliable vehicle for pursuing mining and other corporate projects, which have often become embroiled in legal disputes with indigenous land claimants.

The long list of corporate backers of the Voice features the Minerals Council of Australia, Business Council of Australia (BCA) and large corporations such as BHP, Rio Tinto, Wesfarmers, Woolworths, Coles, the National Australia Bank, Commonwealth Bank, ANZ bank, Lendlease, Deloitte and PwC.

In its 2021 submission to the Indigenous Voice co-design process, initiated under the previous Liberal-National government, the BCA said the Voice would

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"provide a formal and authoritative avenue for corporate Australia" to work with indigenous communities on business "programs and initiatives."

In 2019, to further develop a layer of profiteers with whom to work, members of the BCA announced they would collectively spend more than $3 billion over five years to boost indigenous businesses.

Indigenous Voice proponents have rejected any move to curtail its proposed powers. In a column published by the *Australian* last Saturday, Professor Megan Davis, a key indigenous member of the government's referendum working group, and a fellow constitutional lawyer, Professor Gabrielle Appleby, insisted that the Voice must have the power to speak to "all parts of the government," including the cabinet, ministers, public servants and statutory bodies from the Reserve Bank to the Centrelink welfare agency.

Davis and Appleby said parliament could not "shut the Voice up." The new body would not be "limited to matters specifically or directly related to Aboriginal and Torres Strait Islander peoples." They insisted it would be for the Voice itself to determine which issues had a significant effect on indigenous people.

Craven and some other legal experts have said that, with the current wording, any alleged failure to give the Voice adequate notice of proposed laws and policies, to resource it sufficiently, or to fully take its advice into account was likely to lead to action in the High Court.

Two former Liberal-National prime ministers, John Howard and Tony Abbott, have taken up Craven's warnings. Howard told Sky News that the Voice could turn into a "constitutional quagmire." Abbott wrote an opinion piece in the *Australian*, saying the Voice would lead to a "massive disturbance" to the system of government, and would be "by far the biggest constitutional change we've ever been asked to make."

These objections have been shared by the leaders of the current Liberal-National parliamentary opposition, which is meeting this week to determine its position on the referendum.

An *Australian* editorial last Friday highlighted such concerns. It said "the current wording does not satisfy some experts who see invitations for judicial intervention as being inevitable." The newspaper urged a parliamentary committee, which will review the constitutional amendment over the next six weeks, to "find the bipartisan support that is needed to give it the best chance of success when put to a vote."

Any shift by the government, however, would be opposed by the indigenous architects of the Voice. They want access to decision-making at every level to be constitutionally guaranteed. Noel Pearson, a prominent member of that group, told the *Australian* that the inclusion of the "executive government," that is "day-to-day, week-to-week, month-to-month business" was essential to the constitutional power of the Voice. "If we remove it, we basically remove the guts of the whole proposal," Pearson said.

Pearson is an unabashed opponent of welfare rights and advocate of subordinating indigenous people to the requirements of private profit. This includes via lucrative deals with mining companies that have done nothing for the vast majority of indigenous people—those living in poverty in working-class suburbs, outskirt settlements or remote communities deprived of basic facilities.

One of the essential purposes of the Voice is to further integrate into the ruling establishment the small privileged indigenous layer that Pearson epitomises. Like every other mechanism adopted over the past five decades to cultivate an indigenous capitalist class—from the creation of land rights to previous consultative bodies and phony official apologies—the Voice would only benefit this milieu.

No amount of posturing by this elite, big business and the Labor government can hide the reality: The appalling social conditions experienced by indigenous workers and youth cannot be reversed under the capitalist profit system that is responsible for them. In fact, these conditions are continuing to go backward, along with those of the working class as a whole, as the cost-of-living crisis intensifies, while the Albanese government pours billions into military spending and tax cuts for the rich.

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